IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1966

No. 209

RAILROAD TRANSFER SERVICE, INC.,
A Delaware Corporation,
Petitioner,

vs.

THE CITY OF CHICAGO,
A Municipal Corporation, *et al.*,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

MOTION OF CHICAGO TERMINAL RAILROADS FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE IN SUPPORT OF PETITIONER.

The railroads named below[1] present this motion for leave to file the accompanying brief as *amicus curiae* in support of petitioner.

1. The Atchison, Topeka and Santa Fe Railway Company; The Baltimore and Ohio Railroad Company; The Chesapeake and Ohio Railway Company; Chicago & Eastern Illinois Railroad Company; Chicago and North Western Railway Company; Chicago, Burlington & Quincy Railroad Company; Chicago, Milwaukee, St. Paul and Pacific Railroad Company; Chicago, Rock Island and Pacific Railroad Company; Chicago South Shore and South Bend Railroad; Erie-Lackawanna Railroad Company; Canadian National Railway Company; Grand Trunk Western Railroad Company; Gulf, Mobile and Ohio Railroad Company; Illinois Central Railroad Company; Monon Railroad; The New York Central Railroad Company; Norfolk and Western Railway Company; and The Pennsylvania Railroad Company.

INTEREST OF THE RAILROADS

Every day thousands of railroad passengers, traveling through Chicago on interstate journeys, must be transferred from their incoming railroad station to a different outgoing railroad station. Petitioner performs this transfer service in specially designed buses under a written contract with the named railroads. The passenger receives a coupon good for the transfer with his through ticket, and makes no payment to petitioner for the service. Petitioner receives its entire compensation from the railroads. This service was described in *Chicago* v. *Atchison, Topeka & Santa Fe Railway Company*, 357 U. S. 77, 78-79 (1958). The arrangements between petitioner and the railroads are specifically authorized by § 202(c)(2) of the Interstate Commerce Act, 49 U. S. C. & 302(c)(2), and the transfer is authorized, and may in proper cases be required, by that section and by §§ 1(4) and 3(4) of the Act, 49 U. S. C. §§ 1(4), 3(4). *Atchison*, at 84-87.

In the case at bar petitioner seeks to restrain the enforcement of an ordinance of the City of Chicago which would authorize the City in its discretion to refuse to permit petitioner to perform the service and would impose other unlawful regulation upon petitioner's performance of the service. The ordinance would, in effect, give the City the right to select the transfer agent. A similar ordinance was held invalid in *Atchison*.

REASONS FOR FILING BRIEF AS AMICUS CURIAE

The railroads, speaking for themselves, wish to make clear the fact, which otherwise may not adequately be presented, that they support the position of petitioner in this cause in all respects, and that they have the same interest as petitioner in seeking to reverse the judgment of the Court of Appeals. This fact is relevant and important

since the proper interests of petitioner and the railroads in the performance of the transfer service must necessarily be mutual.

The railroads wish to show that they agree with the conclusions of law advanced in petitioner's brief. No party can assert the railroads' position.

The railroads wish to show briefly, through citation of authorities, the wide application of § 202(c) in railroad operations throughout the country, largely in freight service. The railroads believe that these authorities will not be presented by the parties and that they should be considered by the Court in determining the issue of the conflict of the Interstate Commerce Act with the Chicago ordinance.

Respectfully submitted,

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